

No. 12691

United States
Court of Appeals
for the Ninth Circuit.

ROYAL INDEMNITY COMPANY, a Corpora-
tion,

Appellant,

vs.

GEORGE N. OLMSTEAD,

Appellee.

SUPPLEMENTAL
Transcript of Record

Appeal from the United States District Court,
Southern District of California,
Central Division.

FILED

1951

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Points and Authorities in Support of
Plaintiff's Motion

* * *

ORDINANCE NO. 3041, CITY OF PASADENA

The Answer to Plaintiff's Amended Complaint Does not Deny the Allegations, and All of Them, Contained in Plaintiff's Paragraph VII.

A. Ordinance No. 3041 as amended to November 1, 1945, of the City of Pasadena, a municipal corporation, organized as a charter city provides:

"An Ordinance of the City of Pasadena Regulating the Operation of Certain Motor Propelled Vehicles, Drive-Yourself Vehicles, Vehicles Transporting Passengers for Compensation or for Sight-Seeing Purposes Upon the Public Streets and Prescribing Penalties for the Violation Thereof."

"The Board of Directors of the City of Pasadena ordains as follows:

"Section 1. Definitions: Whenever in this ordinance the following terms are used they shall have the meaning respectively ascribed to them in this section.

"(b) Owner: A person, firm, association, or corporation other than a driver, who or which owns, controls or directs the use of a taxicab, for-hire automobile or sightseeing automobile, or who or which owns, controls, rents, leases or otherwise allows or permits the operation or use of any drive-yourself vehicle.

"(c) Driver: A person in direct and immediate possession or charge of, driving, or operating a

taxicab, for-hire automobile, or sightseeing automobile.

“(h) Drive-Yourself Vehicle: A motor propelled passenger vehicle or truck, other than the vehicles defined in this section, which is operated or used in the City of Pasadena, and which the owner for a consideration rents or leases to or allows or permits the operation or use by, a person, firm, corporation, or association, who or which directs and controls the operation and use of and furnishes the driver for said vehicle or truck, or who or which pays a separate consideration for the services of said driver.

“Section 2. It shall be unlawful for any person, firm, association, or corporation to operate or cause to be operated at any point in the City of Pasadena any taxicab, for-hire automobile, or sightseeing automobile unless there shall be issued by the City of Pasadena an owner’s permit to the owner, and unless each such permit shall be in full force and effect

“(a) It shall be unlawful for any person, firm, association, or corporation to rent, lease or allow or permit the operation or use of any drive-yourself vehicle in the City of Pasadena unless and until the owner thereof shall have been and is the holder of a valid and subsisting permit by the City of Pasadena as provided in this ordinance.

“Section 4. Owner’s Permit to Operate For-Hire Automobiles and Sightseeing Automobiles:

“(a) Any person, firm, association, or corpora-

tion may apply to the City of Pasadena for a permit to operate for-hire automobiles upon the streets of the City of Pasadena by filing with the City Manager of the City of Pasadena, upon forms to be supplied by the City of Pasadena, without charge to the applicant, an application setting forth the name and address of the applicant and the nature of liability insurance covering each for-hire automobile and/or each sightseeing automobile and the size, location and wording of signs to be used on the for-hire automobiles

“(b) The City Manager of the City of Pasadena shall issue a permit without charge to all applicants for a permit to operate a for-hire automobile over the streets of the City of Pasadena, which shall be in full force and effect until the holder thereof shall violate any of the provisions of this ordinance but in no event to be for a period of more than one year from the date of issuance thereof; provided that the application therefor shall set forth and satisfactory proof shall be made to the City Manager that the following facts and acts either exist and have been performed or that they will exist and will be performed before the privileges granted by the permit shall be exercised:

“(c) Owner’s Permit, Drive-Yourself Vehicle: Any person, firm, association, or corporation may apply to the City of Pasadena for a permit to rent, lease or allow or permit the operation or use of any drive-yourself vehicle upon the streets of the City of Pasadena, by filing with the City Manager of the

City of Pasadena, upon forms to be supplied by said City without charge to the applicant, an application which shall state:

“(1) The name of applicant. If applicant be a corporation, the names of the officers thereof and the location of its principal place of business, or if a firm or association the members of such firm or association and their residence address shall be set forth.

“(2) The residence address of applicant.

“(3) The address of the place or places where such business is to be transacted.

“(4) The number of cars to be used in applicant's business, together with the make, type, motor and serial numbers, license numbers and the year first sold.

“(5) That the owner has secured and paid in advance the annual premium upon an insurance policy whereby the insurer agrees to be liable for death of or injury to any person resulting from negligence in the operation of any such drive-yourself vehicle by any person using and operating the same with the permission, express or implied, of such owner. Except as hereinafter provided, the liability of such insurer as provided in such policy shall be not less than \$15,000 for personal injuries to one person, and \$30,000 for personal injuries resulting to two or more persons in any one accident; said insurance policy shall contain an endorse-

ment to provide that said insurance policy will not be cancelled by the insurer or at the request of the insured, until the City of Pasadena, c/o of City Manager, City Hall, Pasadena, California, shall have notice in writing at least 10 days immediately prior to the time when such cancellation shall become effective; provided however, that said policy shall be deemed to comply with the provisions of this subsection in the event one policy is filed as herein provided to cover the minimum amounts of liability on any and all drive-yourself vehicles rented, leased, operated or used in the City of Pasadena by any one owner; The insurance policy required by this subdivision shall provide that suit may be maintained against the insurer by any person injured under the circumstances mentioned in this subdivision.” (Emphasis ours.)

“Section 19. The City Clerk shall certify to the adoption of this ordinance and cause the same to be published once in The Pasadena Star-News.

“I hereby certify that the foregoing ordinance was adopted by the Board of Directors of the City of Pasadena Bessie Chamberlain, City Clerk of the City of Pasadena.”

[Endorsed]: Filed February 15, 1950.

EXHIBIT No. 2

In the Superior Court of the State of California
 In and for the County of Los Angeles
 No. 516890

GEORGE N. OLMSTEAD, by ALFORD P.
 OLMSTEAD, his Guardian ad Litem,

Plaintiff,

vs.

SAM G. RICHARDSON, ROY JORDAN, etc.,
 et al.

Defendants.

ABSTRACT OF JUDGMENT

I certify that in the above-entitled action and Court, on the 13th day of September, 1946, Judgment was entered in Judgment Book 1703, Page 127, in favor of George N. Olmstead, by Alford P. Olmstead, his guardian ad Litem, and against Sam G. Richardson.

That plaintiff George N. Olmstead, by Alford P. Olmstead, his guardian ad Litem, do have and recover from defendant Sam G. Richardson the sum of \$31,000, together with interest thereon at the rate of 7% per annum from September 12, 1946, until paid, and for plaintiff's costs and disbursements amounting to the sum of \$14.00 for \$..... Principal, \$..... Interest, \$..... Attorney fee, and \$..... Costs.

Attested this 18th day of September, 1946.

J. F. MORONEY,
County Clerk,

[Seal] By /s/ G. HALL,
Deputy.

Recorded Sept. 18, 1946, 45 min. past 3 p.m. in
Book 23605 at Page 86 of Official Records, County
of Los Angeles, State of California. Recorded at
Request of Attorney.

MAME B. BEATTY,
County Recorder.

By /s/ T.
Deputy Recorder.

#22

DI. To: Alford P. Olmstead,
510 S. Spring St.,
Los Angeles 13.

[Endorsed]: No. 12691. United States Court of Appeals for the Ninth Circuit. Royal Indemnity Company, a Corporation, Appellant, vs. George N. Olmstead, Appellee. Supplemental Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed: September 21, 1950.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the
Ninth Circuit.